

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

O. WESLEY BOX,

Plaintiff,

vs.

Civ. No. 95-213 SC/WWD

HOWARD D. PURVIS,

Defendant.

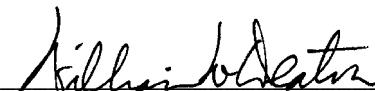
MEMORANDUM OPINION AND ORDER

This matter comes before the Court upon Plaintiff's Motion to Permit Substitution of Expert Witness filed October 8, 1998. Although the motion is clearly outside the dates set by previously entered scheduling orders, I find that it should be granted under the circumstances presented. Because I also find that it would be within my discretion to deny the motion, the expenses in connection with the taking of new expert's deposition by the Defendant as well as any appearance fee charged by the expert for appearing at his deposition, should be borne by the Plaintiff.

**WHEREFORE,**

**IT IS ORDERED** that Plaintiff's Motion to Permit Substitution of Expert Witness [118] be, and it hereby is, GRANTED.

**IT IS FURTHER ORDERED** that Plaintiff's expert may have his deposition taken upon reasonable notice from Defendant, and that the expenses of the deposition as well as the expert's witness fee shall be paid by Plaintiff.

  
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UNITED STATES MAGISTRATE JUDGE